

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION

MDL NO. 1456

CIVIL ACTION: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:

State of Arizona v. Abbott Labs., Inc., et al.,
Cause No. 1:06-CV-11069-PBS

**MOTION FOR DISMISSAL OF THE
SCHERING-PLOUGH GROUP WITH PREJUDICE**

By and through their counsel, the State of Arizona (“State”), pursuant to Fed. R. Civ. P. 41(a)(2), moves for an Order of the Court dismissing defendants Schering-Plough Corporation and Warrick Pharmaceuticals Corporation. In support of this motion, the State states as follows:

1. Schering-Plough Corporation and Warrick Pharmaceuticals Corporation were named defendants in the above-referenced action.
2. The State of Arizona has entered into a Settlement Agreement and Release (“Agreement”) with Merck & Co., Inc. (f/k/a Schering-Plough Corporation), Schering Corporation, and Warrick Pharmaceuticals Corporation (collectively the “Schering-Plough Group”). Pursuant to the terms of the Agreement, the State seeks to dismiss all claims asserted by it against the Schering-Plough Group.
3. Pursuant to the Agreement, the Schering-Plough Group and the State have agreed that each will bear its own legal and other costs incurred in connection with the lawsuit.

4. The dismissal has no effect on the State of Arizona's claims or allegations against any parties other than the Schering-Plough Group in this action.

5. The Schering-Plough Group consents to this motion.

WHEREFORE, the parties jointly request that the Court enter an Order dismissing the Schering-Plough Group with prejudice. A proposed Order of dismissal is attached.

Dated: October 21, 2010

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CERTIFICATE OF SERVICE

I, Steve W. Berman, hereby certify that a true and correct copy of the above document was served on the attorney of record for each party via the Court's electronic filing system this 21st day of October, 2010.

By /s/ Steve W. Berman

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